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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/642,108	08/21/2000	Alan B. Caldwell	9-13528-110US KD:kp	8670
20988	7590	10/19/2004	EXAMINER VANDERPUYE, KENNETH N	
OGILVY RENAULT 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			ART UNIT 2661	PAPER NUMBER

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/642,108

Applicant(s)

CALDWELL ET AL.

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-41,44-82 and 85-121 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,8,41,45,46,49,51,86,87 and 90 is/are rejected.
- 7) ☒ Claim(s) 3,6,7,9-40,44,47,48,50,52-82,85,88,89 and 91-121 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The finality of the previous action has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-5, 8, 41, 45-46, 49, 51, 86-87, 90 are rejected under 35 U.S.C. 102(b) as being anticipated by Kudo(5,802,068)

With regards to claim 1, Kudo teaches a method of extending a data service through a broadband network, the method comprising steps of: accumulating a predetermined number of successive bytes of a data stream respecting the data service at an ingress gateway independently of a communication protocol of the data stream(Fig. 1, accumulate video data or audio data in a buffer), encapsulating the accumulated bytes as a payload packet within a container(Fig. 1@6, 7, packet selecting and packet forming unit); encapsulating the container within a PDU of the broadband packet network (Fig. 1@8,

pack forming unit) and forwarding the PDU through the broadband network to an egress gateway (Fig. 1, transmit multiplexed)

Claim 4 is rejected because the MPEG protocol is known.

Claim 5 is rejected because the predetermined number of bytes is a function of the length of the MPEG packets.

Claim 8 is rejected because the data stream comprises sequential PDUs of the MPEG packets.

Claim 82 is rejected because Kudo teaches a system comprising a) an ingress gateway(Fig. 1):

i) means for accumulating a predetermined number of successive bytes of a data stream respecting the data service, independently of communications protocol of the datastream; (Fig. 1 accumulate video data or audio data in a buffer) , ii) means for encapsulating the accumulated bytes as a payload packet within a container;(see rejection of this limitation in claim 1) and

iii) means for encapsulating the container within a protocol data unit of a broadband packet network.(see rejection of this limitation in claim 1)

b) means for conveying the PDU through the broadband packet network to an egress gateway(inherently taught because the multiplexed data must be demultiplexed);

c) the egress gateway comprising:

i) means for extracting a respective container from each received PDU;(inherently taught because the reverse of encapsulation must be performed) and

ii) means for reconstructing the data stream from using the respective containers.(inherently taught because the reconstruction is part of reverse encapsulation).

Claims 86-87 are rejected for the same reasons as claims 4-5.

Claim 90 is rejected for the same reasons as claim 8.

Claim 41 is rejected for the same reasons as claim 82

Claims 45-46 are rejected for the same reasons as claims 4-5.

Claims 49, 51 are rejected for the same reasons as claims 8.

Allowable Subject Matter

Claims 3, 6-7, ⁹~~10~~-40, 44, 47-48, 50, 52-82, 85, 88-89, 91-121

objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2661

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



KENNETH VANDERPUYE
PRIMARY EXAMINER

KNV
10/15/04